



New York Civil Liberties Union
125 Broad Street, 19th Fl.
New York, NY 10004
(212) 607-3300
www.nyclu.org

February 15, 2024

VIA ECF

Honorable Nelson S. Román
United States District Judge
United States District Court, Southern District of New York
The Honorable Charles L. Brieant Jr. Federal Building and United States Courthouse
300 Quarropas Street
White Plains, New York 10601-4150

Re: *Deide, et al. v. Day, et al.*, No. 23-cv-3954 (NSR/VR)

Dear Judge Román:

The plaintiffs in the above-referenced matter—a putative class of migrants and asylum seekers excluded from the defendants’ counties pursuant to their unlawful executive orders—write to update the Court on the status of the case. Shortly after the Court issued its preliminary injunction in June 2023 enjoining the then-operative executive orders, the county defendants issued revised orders. The plaintiffs then sought, and were granted, limited expedited discovery in anticipation of a second motion for preliminary relief against the defendants’ revised executive orders. Order of July 7, 2023 (ECF No. 64). That discovery was recently completed, and the plaintiffs now write to inform the Court that they intend to await resolution of intervening state-court developments before proceeding with a request for further injunctive relief. Accordingly, the plaintiffs respectfully request that the Court set a case management conference.

In part because the defendants repeatedly sought to delay and withhold discovery, *see* Pls’ Letter of Sept. 1, 2023 (ECF No. 84), and in part because the defendants postponed Defendant Day’s deposition several months for a medical procedure, the plaintiffs were only able to complete what was intended to be expedited discovery on January 9, 2024. Meanwhile, in proceedings brought by the defendant counties, the state courts have since converted temporary restraining orders into preliminary injunctions. *See* Decision and Order, *County of Orange et al. v. City of New York et al.*, Orange Cty. Sup. Ct. Index No. 003109-2023, ECF No. 74; Decision and Order, *County of Rockland v. City of New York et al.*, Rockland Cty. Sup. Ct. Index No. 032065/2023, ECF No. 224. New York City has in turn appealed and moved to stay these state court orders in the Second Department. *See* *County of Orange v. New York City* (2023-05939); *Rockland County Executive v. New York City* (2023-10434). While these appeals and stay

motions remain pending, New York City is not able to relocate putative class members to the defendant counties.

Given these developments, the plaintiffs do not intend to seek additional preliminary relief at this time. However, because the expedited discovery confirmed our view that the current executive orders are just as unlawful as the ones this Court previously enjoined, we are now positioned to expeditiously move for preliminary relief—and prevent irreparable harm—once the state court’s orders are stayed or reversed or the situation on the ground otherwise changes.

Accordingly, the plaintiffs believe the parties can proceed at this time with an initial case management conference and commence general discovery. While the defendants’ motion to dismiss remains pending, this Court previously found that limited discovery in the case could proceed notwithstanding that motion as “it is unclear Defendants’ dispositive motion will succeed.” Order Denying Motion to Stay (ECF 87). The Court’s reasoning remains true now and the plaintiffs are eager to reach a final decision on their claims.

Respectfully submitted,

/s/ Amy Belsher

Amy Belsher
Ifeyinwa Chikezie
Guadalupe Victoria Aguirre
Christopher Dunn
Terry Ding
Antony Gemmell
125 Broad Street, 19th Floor
New York, N.Y. 10004
212-607-3300
abelsher@nyclu.org

Counsel for the Plaintiffs